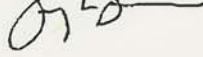




The Deputy Secretary of Energy
Washington, DC 20585

December 17, 2002

MEMORANDUM FOR UNDER SECRETARY FOR NUCLEAR SECURITY
UNDER SECRETARY FOR ENERGY, SCIENCE, AND
ENVIRONMENT

FROM: KYLE E. McSLARROW 
SUBJECT: Interim Guidance for Implementation of the Department's Unclassified Foreign Visits and Assignments Program

We must strengthen our Unclassified Foreign Visits and Assignments Program in order to better protect our national security interests. Our objective should be to do so in ways that will continue to nurture the vital partnership between DOE and the international community in areas such as scientific research.

Toward that end, the Office of Security has been working to promulgate a new departmental directive, DOE O 142.X, Unclassified Foreign Visits and Assignments Program, which I have directed to be placed on a fast track for finalization early in CY 2003. The Department also requested an audit of this program by the Inspector General. This audit was recently completed and the results confirm the need for improvement in the program in areas contemplated by the current draft directive. In light of the significance of these issues, I am issuing the following interim guidance to be implemented immediately by all Departmental elements and contractors. As we make changes to finalize the new directive, we will look for additional opportunities to tailor requirements commensurate with risk in implementation of this program.

DOCUMENTATION IN FOREIGN ACCESS CENTRAL TRACKING SYSTEM

Nationals of State Sponsors of Terrorism

Previous policy appears to have allowed for the possibility that nationals of State Sponsors of Terrorism could be allowed access to our facilities before background checks or counterintelligence indices checks were completed. In addition, as a result of a previous policy that exempted particular sites from reporting requirements pursuant to DOE N 142.1, based on the determination that no classified work is conducted at these facilities, the Department cannot document and account for such persons assigned, or provided access to sensitive information at these sites. To address these deficiencies, the following steps will be taken by all sites, facilities, and laboratories to ensure that appropriate reviews and reporting is performed prior to provision of access.

All sites, facilities, and laboratories will fully document all visits and assignments involving nationals of State Sponsors of Terrorism and will obtain the necessary approvals prior to granting access. State Sponsors of Terrorism are countries that have been designated by the Department of State as countries that sponsor groups and/or activities supporting terrorism or terrorist activities and that are on the list of State Sponsors of Terrorism. For purposes of this interim guidance, a person is considered to be a national of a State Sponsor of Terrorism if that individual is a citizen of, born in, or representing an organization of a State Sponsor of Terrorism, but the term does not include any person who is a U.S. citizen. The required documentation will include biographical information; visit/assignment information; reviews by Security, Counterintelligence, Export Control and Technology Transfer, and, where there is a Foreign Intelligence Element (FIE) on site, Intelligence; completed indices checks; local approval; and approval of the sponsoring Headquarters Program Office. The documentation will also include all other information required to be submitted in the Foreign Access Central Tracking System (FACTS). The request will then be sent to the Headquarters Management Panel for final approval. Additional guidance on justification for approval of nationals of State Sponsors of Terrorism will be provided separately. All documentation and approvals must be entered into FACTS.

Sensitive Country Nationals

All sites, facilities, and laboratories currently subject to DOE N 142.1, Unclassified Foreign Visits and Assignments, will adhere to the procedures provided in the Notice concerning visits and assignments of Sensitive Country Nationals. For purposes of this interim guidance, a person is considered to be a Sensitive Country National if that individual is a citizen of, born in, or representing an organization of a Sensitive Country, but the term does not include any person who is a U.S. citizen. The list of Sensitive Countries is maintained by the Office of Nonproliferation and National Security. All documentation and approvals must be entered into FACTS prior to granting access.

As a result of a previous policy that exempted particular facilities from reporting requirements pursuant to DOE Notice 142.1, the Department currently is unable to document and account for all such persons assigned or provided access to sensitive information at these sites. To address this deficiency, the seven facilities currently exempt from DOE N 142.1 (Ames Laboratory, Fermi National Accelerator Center, Lawrence Berkeley National Laboratory, National Renewable Energy Laboratory, Princeton Plasma Physics Laboratory, Stanford Linear Accelerator Center, and Thomas Jefferson National Accelerator Laboratory) will now provide, prior to granting access, the information required in the attached "Documentation Format" in FACTS, for any Sensitive Country National who is on-assignment or whose visit involves access to Sensitive Subjects (see DOE N 142.1). For those visits and assignments involving access to Sensitive Subjects a specific security plan shall be developed and approved by the local approval authority. Within thirty days, the director for each of the currently exempt laboratories will develop an implementation plan that identifies those specific items from the Sensitive Subject List that are relevant to research efforts at their laboratory, and which organizations, facilities and/or individuals are involved in such research. The implementation plan will provide for

documentation in FACTS and development of a specific security plan only for visits involving access to those identified organizations, facilities and/or individuals; other visits will be deemed not to involve access to Sensitive Subjects. The implementation plan will be provided through the appropriate site office manager to the Director, Office of Science or the Assistant Secretary for Energy Efficiency and Renewable Energy for review and approval; copies of the plan will be provided concurrently to the Director, Office of Security and Director, Office of Counterintelligence. The requirements of DOE Notice 142.1 do apply to visits and assignments to these facilities hosted by individuals holding security clearances at these facilities.

Other Foreign Visitors and Assignees, and Generally Applicable Requirements

All sites, facilities, and laboratories currently subject to DOE N 142.1 will continue to document all requests, reviews, and approvals in FACTS prior to granting access as required by the Notice and the memorandum from Deputy Secretary Blake entitled, *Department Use of Foreign Access Central Tracking System*, dated November 5, 2001.

EXEMPT FACILITIES

The exemption of certain facilities from the requirements of DOE N 142.1 was based on the determination that these facilities do not perform any classified work and, therefore, procedures for visits and assignments to these facilities do not require safeguards equivalent to those for sites performing classified work. However, if, at any time, classified work is performed, or classified materials are stored at a currently exempt facility, the facility will be subject to the full requirements of DOE N 142.1 and this interim guidance.

PASSPORT, VISA, AND IMMIGRATION AND NATURALIZATION SERVICE INFORMATION

In addition to the information required to be collected for DOE sponsored visas, all sites, facilities, and laboratories must collect from all foreign national visitors and assignees (including those sponsored by organizations other than DOE) sufficient passport, visa, and Immigration and Naturalization Service (INS) information for review and documentation in FACTS to verify identity, to verify authority to work (when appropriate for the activities involved), and to ensure the foreign national is currently eligible (in lawful immigration status) to be in the U.S. At a minimum, the following information will be provided:

For Legal Permanent Residents:

Permanent Resident Card and Government issued Photo Identification

For all others:

Government issued Photo Identification (Passport, or if no passport is required, driver's license, military ID, etc.), to include type of document, document number, and expiration date.

Documentation to verify status and/or authority to work (INS Form I-94 Arrival-Departure Record, or INS receipt for change of status, waiver or extension), to include visa type and expiration date on I-94 or issue date for INS receipt.

All sites, facilities, and laboratories will require foreign visitors and assignees and sponsoring organizations (if not DOE) to promptly notify DOE of all changes in the status of foreign visitors and assignees, and information in FACTS must be updated as changes occur. All sites, facilities, and laboratories will also establish administrative controls (through badge expiration dates or other mechanisms) to ensure annual re-verification of the current status of foreign nationals. In the case of Sensitive Country Nationals, re-verification will occur at six-month intervals.

INDICES CHECKS

When an indices check is required prior to granting access, the indices check must be requested 30 days in advance of the start of a visit or assignment. Indices checks or counterintelligence consultations must be completed and documented in FACTS prior to granting access to those categories identified in the current DOE Policy and Notice 142.1. For the seven sites currently exempt from DOE N 142.1, completion of indices checks is required for Sensitive Country Nationals who are on assignment, or whose visit involves access to Sensitive Subjects, but may be completed after access is granted.

APPROVALS

Requests for those unclassified foreign visits and assignments that are required to be documented in FACTS must also have approval by the appropriate approval authority documented in FACTS before the visits or assignments may begin. The approval authority for access by Terrorist Country Nationals is the Headquarters Management Panel; for all other foreign nationals, the local approval authority (laboratory director or site manager) is the final approval required for access. The approval authority must take into consideration the reviews conducted by Security, Counterintelligence, Export Control and Technology Transfer, and, when appropriate, Intelligence.

The continued ability to conduct our necessary scientific endeavors while protecting sensitive assets depends in part on the effective implementation of this program. I know I can count on you and the Departmental elements under your purview to ensure that this program is implemented effectively throughout the Department.

Attachment

Attachment

**Required Information for Documentation Format in FACTS
For Sensitive Country Foreign Nationals at Exempt Laboratories**

Full Name

Date of Birth

Place of Birth (city or region and country)

Citizenship

Government Issued Photo Identification to verify identity and/or citizenship

Passport Number

Country of Issue

Expiration Date, if any.

(If other Government issued Photo ID is used, document the type used in the Remarks section and annotate the unique number from that document in the section for Passports in Number field, country of issue, and expiration date, if any.)

Verification of Status

Visa Type

Expiration Date, if any

(If expiration date will come before end of V/A, and foreign national has a receipt from INS stating they have applied for change of status, extension or waiver, that information must be documented in the Remarks section to include a number of the receipt and application type.)

Employer, Institution, or Organization represented

Employer/Institution/Organization country

Title or Expertise

Site/Facility/Laboratory to be visited

Type of Request (Visit or Assignment)

Whether or not Sensitive Subjects will be discussed (Y/N)

Is visit a High Level Protocol Visit (Y/N)

Security Area Type at the Facility (non-security area, PPA, Ltd. Area, PA, MAA, Exclusion Area, SCIF)

Estimated Start Date

Estimated End Date

Justification of visit/assignment including specific activities or involvement (reason for visit/assignment)

Host Full Name

Host Citizenship

Does the Host have a Clearance? (Y/N)

Host Telephone Number

Close out information

Information on the final status of the visit/assignment (i.e., completed, cancelled, etc)

Actual Start Date

Actual End Date

Remarks

cc:

Deputy Secretary, Office of the Deputy Secretary, S
Chief of Staff, Office of the Secretary, S

Deputy Administrator, Defense Programs, NA-10

Acting Administrator, National Nuclear Security Administration, Nuclear Nonproliferation,
NA-20

Senior Advisor, National Nuclear Security Administration, Environment, Safety and Health,
NA-3.6

Deputy Administrator, National Nuclear Security Administration-Navel Reactors, NA-40

Associate Administrator, Facilities and Operations, NA-50

Executive Director, Office of Advisory Board, AB-1

Assistant Secretary, Office of Congressional and Intergovernmental Affairs, CI-1

Assistant Secretary, Energy Efficiency and Renewable Energy, EE-1

Assistant Secretary, Environment, Safety and Health, EH-1

Assistant Secretary, Environment Management, EM-1

Assistant Secretary, Fossil Energy, FE-1

Assistant Secretary, Office of Policy and International Affairs, PI-1

General Counsel, Office of General Counsel, GC-1

Inspector General, Office of Inspector General, IG-1

Director, Office of Hearing and Appeals, HG-1

Chief Information Officer, IM-1

Director, Office of Counterintelligence, CN-1

Director, Office of Energy Assurance, EA-1

Director, Office of Economic Impact and Diversity, ED-1

Director, Office of Management, Budget, and Evaluation, ME-1

Director, Office of Nuclear Energy, Science and Technology, NE-1

Director, Office of Public Affairs, PA-1

Director, Office of Contract Reform & Privatization, PC-1

Director, Office of Civilian Radioactive Waste Management, RW-1

Director, Office of Science, SC-1

Director, Office of Security, SO-1

Director, Office of Worker and Community Transition, WT-1

Administrator, Energy Information Administration, EI-1

Manager, Albuquerque Operations Office (AL)

Manager, Chicago Operations Office (CH)

Manager, Carlsbad Field Office (CFO)

Manager, Golden Field Office (GO)

Acting Manager, Idaho Operations Office (ID)

Manager, NNSA, Nevada Operations Office (NV)

Manager, NNSA, Oakland Operations Office (OAK)

Deputy Manager, Ohio Field Office (OH)

Interim Manager, Oak Ridge Operations Office (OR)
Manager, Rocky Flats Field Office (RFFO)
Manager, Office of River Protection (RIVPRO)
Manager, Richland Operations Office (RL)
Acting Manager, Savannah River Operations Office (SR)

Area Manager, Amarillo Area Office (AAO)
Acting Area Manager, Ames Area Office (AMESAO)
Director, Albany Research Center (Oregon), ARC
Area Manager, Argonne Area Office (ARGAO)
Manager, Berkeley Site Office (BERK)
Group Manager, Brookhaven Area Office (BK)
Site Manager, East Tennessee Technology Park (ETTP)
Deputy Manager, Fernald Environmental Management Project (FEMP)
Area Manager, Fermi Area Office (FERMI)
Area Manager, Kirtland Site Operation (KSO)
Director, Kansas City Site Operations (KC)
Director, Los Alamos Site Operations (LASO)
Director, Lawrence Livermore National Laboratory (LLNL-NTS)
Manager for NNSA, Livermore Site Office (LSO)
Project Director, Miamisburg Environmental Management Project (MEMP)
Director, Naval Petroleum and Oil Shale Reserves (NPOSR-CUW)
Assistant Manager for Laboratories, Oak Ridge National Laboratory Site Office (ORNLSO)
Manager, Princeton Area Office (PAO)
Director, Oak Ridge Institute for Science and Education (ORISE)
Project Manager, Strategic Petroleum Reserve Project Management Office (SPRPMO)
Manager, Defense Operations, NNSA, Savannah River Operations Office (SR)
Director, Stanford Site Office (SSO)
Manager, Thomas Jefferson National Accelerator Facility (TJNAF)
Director, West Valley Demonstration Project (WVDP)
Project Manager, Yucca Mountain Site Characterization Office (YMSCO)

Administrator, Bonneville Power Administration (BPA)
Administrator, Southeastern Power Administration (SEPA)
Administrator, Southwestern Power Administration (SW)
Administrator, Western Area Power Administration (WAPA)

Director, Ames National Laboratory (AMES)
Director, Argonne National Laboratory – East (ANL-E)
Interim Director, Brookhaven National Laboratory (BNL)
Director, Environmental Measurements Laboratory (EML)

Director, Fermi National Accelerator Laboratory (FNAL)
President & Laboratory Director, Bechtel BWXT Idaho (ID)
Director, Los Alamos National Laboratory, (LANL)
Director, Lawrence Berkeley National Laboratory (LBNL)
Director, Lawrence Livermore National Laboratory (LLNL)
Acting Director, New Brunswick Laboratory (NBL)
Director, Center for Molecular Medicine Laboratory (MML)
Director, National Energy Technology Laboratory (NETL)
Director, National Renewable Energy Laboratory (NREL)
Director, Oak Ridge National Laboratory (ORNL)
Director, Pacific Northwest National Laboratory (PNNL)
Director, Princeton Plasma Physics Laboratory (PPPL)
Director, Stanford Linear Accelerator Center (SLAC)
President, Sandia National Laboratory (SNL)
Director, Savannah River Ecology Laboratory (SREL)
Interim Director, Thomas Jefferson National Accelerator Laboratory (TJNAL)

Chairman, Defense Nuclear Facilities Safety Board (DNFSB)
Departmental Representative to DNFSB, Office of the Departmental Representative to the
Defense Nuclear Facilities Safety Board, S-3.1